



PUBLIC PETITION NO.

PE01340

Name of petitioner

John Scott on behalf of Neilston and District Community Council

Petition title

Increasing the protection of Scotlands tree heritage

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to extend and simplify the system of Tree Preservation Orders to give all trees a protection similar to that enjoyed by trees in conservation areas.

Action taken to resolve issues of concern before submitting the petition

The Community Council, and several individuals, have had meetings, presentations and discussions with the local planning authority (East Renfrewshire Council) over the years. It is apparent that the council lack the funds and staffing to prioritise tree protection. In ERC there is one council officer dealing with the administration, implementation and maintenance of TPOs in addition to advising on planning & tree related matters, and one arboreal specialist. This is to cover an area of approximately 174km² of which 85% is rural and includes over 100 Sites of Importance for Nature Conservation and 68 Tree Preservation Order Areas and Areas of Ancient Woodland.

Moreover, for individuals to apply to the council for TPOs to cover trees which might some day be threatened with removal is a long, technical and expensive process as explained in section 5 below. The local MSPs have not been approached regarding the petition since, although MSPs might have an interest in tree protection, their remit would only be at a local level whereas it is felt that a national response is required. The petition has the support of the local councillors.

Petition background information

The subject of the petition is to extend the level of protection presently enjoyed by trees in areas designated as conservation areas to all trees in Scotland, irrespective of whether or not the trees are in a conservation area. Mature trees would, by default, be protected from unauthorised felling or uprooting.

In spite of the recognised environmental and socio-economical benefits of trees in both urban and rural locations, perfectly healthy mature trees continue to be destroyed by householders, utility companies and developers, for the most trivial of reasons.

To give three recent examples: in 2007, in East Kilbride (South Lanarkshire), Network Rail employed contractors to remove dozens of trees along a stretch of railway line between Hairmyres station and East Kilbride. These trees, apart from providing nesting

facilities for a variety of birds, provided a pleasant outlook and screened the rail traffic both visually and acoustically from the area through which it ran. The local authority was unable to intervene since the trees were not protected and were growing on Network Rail land. The explanation Network Rail gave was that the trees were “a danger” (unspecified). Ironically, the rail line now being quite exposed soon attracted the attention of local vandals who proceeded to throw all sorts of debris onto the now unshielded line.

A second example is the small private development at the north-east boundary of Neilston, where 28 houses were built between 2004 and 2006. The planning consent allowed the removal of several self-seeded and unhealthy trees, the remainder to be fenced off and protected during the building works. The developer, presumably to cut down on disposal costs, spread many tons of surplus clay soil from the excavations around the site including the bases of the fenced-off trees, thus succeeding in both damaging the roots and raising the water table. These activities were reported to the council who failed to take any meaningful steps to remedy the situation. As a result, many of the trees died off and had to be removed. Mature trees of a variety of species continue to die at the site at the rate of two to three a year. The council suggested it would be “too expensive” to pursue the builder to have the trees replaced. As though to compound the environmental damage, one of the householders who had two mature trees in his garden, forming part of an avenue of trees on entering the village, had them removed. This latter incident underlines a failing in the existing legislation where the trees were supposedly protected from damage during the actual building works, but on passing into private ownership they lost all protection.

As a third example, in April 2010, eight mature trees including several old beech trees on Uplawmoor Road were felled by contractors working for one of the electricity utility companies. These trees were of historical importance to the Neilston and Uplawmoor area. The utility company subsequently claimed to have instructed the contractors only to trim back two trees. How this became translated into “fell eight trees” is somewhat of a mystery. In spite of widespread local condemnation of this incident, the council is powerless even to instruct the utility company to replace the trees, since under the present legislation, they had no protection.

In the experience of the Community Council the current procedures allowing concerned individuals to nominate individual trees, or groups of trees, for consideration of TPOs is unwieldy, slow, expensive, and local authorities, due probably to staffing and financial constraints, do little to encourage such individual action. In any case, the final decision to grant a TPO to cover a designated tree depends largely on a number of specified factors, including potential amenity value. The petitioners submit that because of the cumulative harmful environmental impact of tree removal, there should instead be a strong presumption against tree removal unless other factors strongly dictate to the contrary.

Tree Preservation Orders were first formally introduced in Scotland in 1947, although records show that Glasgow issued over 40 TPOs throughout the preceding decade. While trees have traditionally been a part of the Scottish landscape, their importance in the environment has often been overlooked as evidenced by current legislation which fails to offer any protection to non TPO'd trees. Their ability to remove and fix carbon dioxide from the atmosphere is acknowledged by most people, while in an urban location they additionally act as an important filter for particulate matter and certain airborne toxins, as well as providing an important micro-environment for a wealth of living organisms. The amenity value of trees in an urban environment is largely unchallenged. In the more rural environment no-one disputes the crucial role of trees in a complex ecosystem.

In most European countries (including Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Netherlands, Norway, Poland, Slovenia, Slovakia and Sweden) not to mention North America, Australia and New Zealand, there has for a long time been a tradition of incorporating trees, both newly-planted, and mature, in development schemes. Unfortunately, with the rapid expansion of some council housing estates in the mid to

late 60's, this tradition was neglected, to the detriment of the social and physical environment. In spite of the importance of trees in our environment, they have come under increasing pressures from developmental and other sources. The regulations regarding trees and TPOs have scarcely changed in the past 35 years. In the publication by Roger Jessop for the Scottish Executive Development Department, "The Effectiveness of TPOs in Scotland, 2002" it was stated:

"...whilst the overall position for trees outlined above is positive, there are a number of negative factors. On a local scale, the on-going management of many TPO sites has been either non-existent or to a very low standard. This situation arises through a combination of a lack of knowledge, finance and commitment to the maintenance of protected trees. In addition, many buildings, public utilities and parking areas have encroached so close to protected trees that long-term damage to the root systems is inevitable. In many cases replacement trees have not been planted to preserve the original amenity value of the protected trees. "

Note that the above comments refer only to the fate of trees which are already protected by TPOs. For non-protected trees the situation is much worse. Members of the Community Council have experienced examples of whole swathes of trees being cut down by utilities companies, Network Rail contractors etc. presumably for the reasons that regular trimming of the "offending" trees to prevent them touching power lines or shedding leaves onto rails is an ongoing cost, while cutting them down solves the problem once and for all! Also, whilst most local planning authorities diligently describe to potential developers how the trees on a development shall be protected during the works, paradoxically, as soon as the development passes into private hands, householders have been known to fell the trees in their garden to avoid the nuisance of leaves in the gutters or driveway. Many older villagers are able to tell stories of once tree-lined roads through their village, where now there grow only a few straggly modern hedges.

Individuals who wish to preserve the character of their towns and villages and contribute to the protection of the general environment and have some small impact on the fight against global warming by applying to their local council face a number of hurdles. It is necessary to submit such a request in writing, giving the exact location of the tree in question, its species, approximate age, general condition and health, and an explanation of why, in the applicant's view, there would be a public benefit from a TPO being granted. The "amenity value" might include its visibility to the general public and impact on its immediate environment, its perceived amenity due to size and form, its contribution to visual, noise or wind screening and its more widespread significance with other trees in the local surroundings. Local planning authorities are obliged to survey the tree and make their own judgement of "amenity value", which is almost totally subjective. It is not surprising that the process is expensive (and in today's economic climate, almost prohibitively expensive). Scottish Borders Council in 2001 estimated the cost of raising a Tree Preservation Order was around £10k, being broken down for accounting purposes as £5k for direct costs relating to the initial examination and £5k in staff costs in planning, legal and statutory advertising etc.

The present system of granting TPOs is unwieldy, slow, expensive and largely subjective, and is no longer appropriate in the 21st century.

SUMMARY & CONCLUSION

1.The costs of raising a TPO are very high, and probably quite prohibitive within today's budgetary constraints.

2Local Authorities are increasingly unlikely to devote the time or money increasing the level of specialist staff with the required training to deal with a large increase in TPO applications.

3It is impractical for individuals or groups to attempt to apply for TPOs for groups of, or large numbers of trees which, for example, surround a settlement or village.

4.The majority of trees within our rural and urban environments have no protection whatsoever.

5. Trees within conservation areas already benefit from protection against felling or damage. They also require to be replaced with an appropriate number of trees of the same species if they require to be removed. It is suggested that the common measure of a 6.5cm trunk diameter, measured 1m up from the base of the tree, be taken as size & age above which protection is afforded.

6. The petitioners request that throughout Scotland, there should be a strict presumption against felling or damage to any trees, irrespective of whether these lie in a conservation area or not.

7. Removal, pruning etc. of trees would require permission from the LPA. Whilst this would involve increasing the staff size, it could be made revenue neutral by levying an appropriate fee for the application. This could also be a source of increased training and employment for people with benefits to the wider economy.

8. Trees which are commercially grown or planted with a view to future felling would be notifiable at time of planting, but exempt from the main conditions of the Order.

9. As the SPICe briefing paper of 5 January 2006 showed, there are many different approaches and views to this problem. Given that every day more trees are unnecessarily cut down & destroyed for ever, the petitioners request that the enhanced protection of Scottish trees should be examined as a matter of urgency.

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Forest Legislation in Europe (UNECE)

Tree Protection Legislation in European Cities

The Effectiveness of Tree Preservation Orders in Scotland (Scottish Executive. Development Department)

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01340>

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